



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

American Home Assurance Company

MFDR Tracking Number

M4-17-1797-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

February 13, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "... the claim was submitted on 4/18/16 and it was received by the provider on 4/22/16 ... Sentrix received a partial payment of \$2158.07 on 5/16/16. The bill was three pages in total. The payment received was for page one of the bill only. The other two pages of the bill were not paid. Sentrix made a good faith effort to notify the carrier of their failure to respond to the entire bill on 6/10/16 and it was received by the provider on 6/13/16 ... On 8/17/16, Sentrix received a partial payment of \$10.10 (page three of the bill). Page 2 of the bill, totaling \$10,465.01 for 2 ingredients was never paid."

Amount in Dispute: \$10, 465.01

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Our bill audit company has determined no further payment is due ... The bill will deny for untimely filing."

Response Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 18, 2016	Pharmacy Services - Compound	\$10,465.01	\$10,444.81

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
3. 28 Texas Administrative Code §133.200 sets out the insurance carrier's procedures for receipt of medical bills.

4. 28 Texas Administrative Code §133.210 sets out the procedures for medical documentation.
5. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers' compensation insurance carrier.
6. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
7. 28 Texas Administrative Code §134.503 sets out the fee guideline for pharmacy services.
8. Submitted documentation does not include explanations of benefits that provide a review of the compound ingredients in question.

Issues

1. Did American Home Assurance Company (American Home Assurance) reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
2. Is Sentrix Pharmacy and Discount, L.L.C. (Sentrix) entitled to reimbursement for the disputed services?

Findings

1. Sentrix is seeking reimbursement of \$10,465.01 for two ingredients of a compound containing Propylene Glycol, Gabapentin, Fluticasone Propionate, Pracasil Plus – Base Cream, Naproxen, and Methyl Salicylate dispensed on April 18, 2016. The two ingredients sought by Sentrix in this dispute are Fluticasone Propionate and Pracasil Plus – Base Cream.

Sentrix contends that Gallagher Bassett, agent of American Home Assurance, “failed to take final action within the 45-day period set forth in TAC §133.240.” According to Texas Labor Code Sec. 408.027(b), American Home Assurance was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240(a) also required American Home Assurance to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

- (6) Final action on a medical bill—
 - (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
 - (B) denying a charge on the medical bill.

The following evidence supports the written statement from Sentrix that the pharmaceutical bill for the service in dispute was initially received by Gallagher Bassett on Friday, April 22, 2016:

- A copy of a USPS certified mail receipt with tracking number 9414 8118 9956 3759 0307 61, postmarked April 18, 2016.
- A USPS tracking document indicating that USPS tracking number 9414 8118 9956 3759 0307 61 was delivered on Friday, April 22, 2016 at the location listed on the USPS receipt.

There is evidence to support that Gallagher Bassett received a pharmaceutical bill for the services in dispute on April 22, 2016. 28 Texas Administrative Code §133.210(e) states:

It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. The Division considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other.

Possession of the pharmacy bill by Gallagher Bassett is therefore considered to be simultaneously possessed by American Home Assurance. American Home Assurance was not relieved of its requirement to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix, in accordance with Texas Labor Code Sec. 408.027(b). When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...

- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

All workers compensation insurance carriers are expected to fulfill their duty to take final action as required by the divisions Laws and adopted administrative rules. The division finds that:

- no evidence was presented to the division to support that American Home Assurance took final action by paying, reducing, or denying the ingredients in dispute within 45 days; and
- no evidence was presented to the division to support that American Home Assurance timely presented **any** defenses to Satrix on an explanation of benefits for the ingredients in question, as required under 28 Texas Administrative Code §133.240 prior to the request for medical fee dispute resolution.

In its position statement, Gallagher Bassett asserted that the ingredients in question were denied “for untimely filing.” American Home Assurance’s failure to timely issue an explanation of benefits for the ingredients in question to Satrix creates a waiver of defenses that Gallagher Bassett raised in its response to medical fee dispute resolution under 28 Texas Administrative Code §133.307(d)(2)(F):

The [carrier’s] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

Absent any evidence that American Home Assurance raised defenses that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division concludes that the defenses presented in Gallagher Bassett’s position statement shall not be considered for review because those assertions constitute new defenses pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

2. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
- (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
- (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
- (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
- (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
- (A) health care provider; or
- (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound ingredients in dispute were billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Fluticasone Propionate	38779276004 Generic	\$3449.3552	2.4 gm	$\$3449.3552 \times 2.4 \times 1.25 = \$10,348.07$	\$8,277.90	\$8,277.90
Pracasil Plus – Base Cream	51927465500 Brand Name	\$12.72	170.4 gm	$\$12.72 \times 170.4 \times 1.09 = \$2,362.56$	\$2,166.91	\$2,166.91
Total						\$10,444.81

The total allowable reimbursement is therefore \$10,444.81. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$10,444.81.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$10,444.81, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Laurie Garnes Medical Fee Dispute Resolution Officer	<hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> May 19, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.